

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC.,

Plaintiff,

v.

DISCOVERY COMMUNICATIONS, INC.,

Defendant.

Case No. C09-0681RSL

MINUTE ORDER SETTING TRIAL
DATE & RELATED DATES

TRIAL DATE

March 7, 2011

Disclosure of asserted claims and infringement contentions
pursuant to Local Patent Rule 120

October 15, 2009

Disclosure of non-infringement and invalidity contentions
pursuant to Local Patent Rules 121 and 122

November 16, 2009

Joint submission of potential technical advisors

November 16, 2009

Deadline for joining additional parties and amending pleadings

January 4, 2010

Reports from expert witnesses, if any, regarding Markman issues

March 22, 2010

Rebuttal expert reports, if any, regarding Markman issues

April 20, 2010

Joint claim construction and prehearing statement due pursuant
to Local Patent Rule 132

May 3, 2010

Opening claim construction briefs due (24 page limit)

May 17, 2010

Responsive claim construction briefs due (24 page limit)

May 31, 2010

Markman hearing

at 9:00 a.m. on

June 10, 2010

Reports from expert witnesses under FRCP 26(a)(2) due

September 17, 2010

Rebuttal expert reports due

October 18, 2010

1 All motions related to discovery must be noted on the motion
2 calendar no later than the Friday before discovery closes
3 pursuant to CR 7(d) or CR 37(a)(1)(B)

4 Discovery completed by November 17, 2010

5 All dispositive motions must be filed by December 7, 2010
6 and noted on the motion calendar no later than the
7 fourth Friday thereafter (see CR 7(d)(3))

8 Settlement conference per CR 39.1(c)(2) held no later than January 6, 2011

9 Mediation per CR 39.1(c)(3) held no later than February 5, 2011

10 All motions *in limine* must be filed by February 7, 2011
11 and noted on the motion calendar seven judicial days
12 thereafter pursuant to CR 7(d)(2)

13 Agreed pretrial order due February 23, 2011

14 Pretrial conference to be scheduled by the Court

15 Trial briefs, proposed voir dire questions, proposed March 2, 2011
16 jury instructions, and trial exhibits due

17 Length of Trial: 7-10 days Jury XXX

18 These dates are set at the direction of the Court after reviewing the joint status report and
19 discovery plan submitted by the parties. All other dates are specified in the Local Civil Rules
20 and Local Patent Rules. If any of the dates identified in this Order or the Local Rules fall on a
21 weekend or federal holiday, the act or event shall be performed on the next business day. These
22 are firm dates that can be changed only by order of the Court, not by agreement of counsel or the
23 parties. The Court will alter these dates only upon good cause shown; failure to complete
24 discovery within the time allowed is not recognized as good cause.

25 If the Markman hearing or trial dates assigned to this matter create an irreconcilable
26 conflict, counsel must notify Teri Roberts, the judicial assistant, at 206-370-8810 within 10 days
of the date of this Order and must set forth the exact nature of the conflict. A failure to do so

1 will be deemed a waiver. Counsel must be prepared to begin trial on the date scheduled, but it
2 should be understood that the trial may have to await the completion of other cases.

3 ALTERATIONS TO ELECTRONIC FILING PROCEDURES AND COURTESY COPIES

4 As of June 1, 2004, counsel are required to electronically file all documents with the
5 Court. *Pro se* litigants may file either electronically or in paper form. Information and
6 procedures for electronic filing can be found on the Western District of Washington's website at
7 www.wawd.uscourts.gov. The following alterations to the Electronic Filing Procedures apply in
8 all cases pending before Judge Lasnik:
9

10 - Section III, Paragraph F - pursuant to Local Rule 10(e)(8), when the aggregate submittal
11 to the court (*i.e.*, the motion, any declarations and exhibits, the proposed order, and the
12 certificate of service) exceeds 50 pages in length, a paper copy of the documents (with tabs or
13 other organizing aids as necessary) shall be delivered to the Clerk's Office for chambers by
14 10:30 am the morning after filing. The chambers copy must be clearly marked with the words
15 "Courtesy Copy of Electronic Filing for Chambers."
16

17 - Section III, Paragraph L - unless the proposed order is stipulated, agreed, or otherwise
18 uncontested, the parties need not e-mail a copy of the order to the judge's e-mail address.
19

20 Pursuant to Local Rule 10(e)(10), all references in the parties' filings to exhibits should
21 be as specific as possible (*i.e.*, the reference should cite the specific page numbers, paragraphs,
22 line numbers, etc.). All exhibits must be marked to designate testimony or evidence referred to
23 in the parties' filings. Filings that do not comply with Local Rule 10(e) may be rejected and/or
24 returned to the filing party, particularly if a party submits lengthy deposition testimony without
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1 highlighting or other required markings.

2 **PRIVACY POLICY**

3 Pursuant to Federal Rule of Civil Procedure 5.2 and Local Rule 5.2, parties must redact
4 the following information from documents and exhibits before they are filed with the court:
5

6 * Dates of Birth - redact to the year of birth

7 * Names of Minor Children - redact to the initials

8 * Social Security Numbers and Taxpayer Identification Numbers - redact to the last four
9 digits

10 * Financial Accounting Information - redact to the last four digits

11 * Passport Numbers and Driver License Numbers - redact in their entirety
12

13 All documents filed in the above-captioned matter must comply with Federal Rule of
14 Civil Procedure 5.2 and Local Rule 5.2.

15 **TECHNICAL ADVISOR**

16 Depending on the nature of the invention and the factual/technical issues that are likely to
17 be in dispute, the Court may appoint a technical advisor to assist the Court during the claim
18 construction proceedings and/or the trial of this matter. The parties shall, by the date set forth
19 above, confer and submit the resumes of three qualified individuals who are willing to serve as a
20 technical advisor in this matter. If the Court appoints one of the nominated individuals as a
21 technical advisor, the parties shall split the cost of the expert equally.
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24 **CLAIM CONSTRUCTION PROCEDURES**

25 After exchanging the preliminary claim constructions and other information required by
26

1 Local Patent Rule 131, the parties shall meet in person to narrow the disputed issues and finalize
2 the Joint Claim Construction and Prehearing Statement required by Local Patent Rule 132. The
3 preliminary claim constructions should help the parties narrow the terms in dispute; the Court
4 expects the terms presented in the Joint Claim Construction and Prehearing Statement to be truly
5 in dispute, to be essential to the outcome of this litigation, and to number no more than ten.
6

7 The Joint Claim Construction shall be formatted as provided in the sample found at
8 Appendix 2 to the Local Patent Rules. The Chart must include each party's proposed
9 construction of disputed terms, together with specific references to the relevant portions of the
10 specification and prosecution history on which the party relies and descriptions of any
11 supporting extrinsic evidence. By the time the Joint Claim Construction for each patent is filed,
12 all allegations of infringement must be revealed, and the Court will not consider new allegations
13 of infringement without the asserting party showing good cause.
14

15 The claim construction hearing will be set for one full trial day (approximately 5 hours).
16 If more or less time is required, the parties are instructed to inform Teri Roberts at 206-370-
17 8810. Ten days before the claim construction hearing, the parties shall file and serve a list of
18 all witnesses who will be called to testify. All rebuttal witnesses shall be disclosed at least five
19 days before the hearing.
20

21 COOPERATION

22 As required by CR 37(a), all discovery matters are to be resolved by agreement if
23 possible. Counsel are further directed to cooperate in preparing the Joint Claim Construction
24 and final pretrial order in the format required by CR 16.1, except as ordered below.
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26

EXHIBITS

The original and one copy of any exhibits to be used at the Markman hearing and/or trial are to be delivered to chambers five days before the hearing or trial date. Each exhibit shall be clearly marked. Exhibit tags are available in the Clerk's Office. The Court hereby alters the CR 16.1 procedure for numbering exhibits: plaintiff's exhibits shall be numbered consecutively beginning with 1; defendant's exhibits shall be numbered consecutively beginning with 500. Duplicate documents shall not be listed twice: once a party has identified an exhibit in the pretrial order, any party may use it. Each set of exhibits shall be submitted in a three-ring binder with appropriately numbered tabs.

SETTLEMENT

Should this case settle, counsel shall notify Kerry Simonds, the deputy clerk, at 206-370-8519 as soon as possible. Pursuant to GR 3(b), an attorney who fails to give the Deputy Clerk prompt notice of settlement may be subject to such discipline as the Court deems appropriate.

DATED this 22nd day of September, 2009.

/s/ Kerry Simonds
Kerry Simonds, Deputy Clerk to
the Honorable Robert S. Lasnik, Judge